

Jefferson County Foundation, Inc.

August 6, 2020

Via email

Brad Wright
Assistant Chief Inspector
Environmental Enforcement – Water and Waste
601 67th Street SE
Charleston, WV, 25304

Re: CSW complaint - Mountaineer Gas

Mr. Wright

Thank you for having this area of concern inspected. We look forward to the report of such inspection.

While we acknowledge your assertion that this appears from the pictures to be a construction area of less than 1 acre. We wish to again share and further explain our continuing concern from March of 2020. We continue to believe that Mountaineer Gas (MG) is executing a connected, linear project in excess of one acre that they intend to complete within a year with a single end-user. This would make this project subject to WVDEP Oil and Gas Construction Stormwater Permitting.

We believe MG is entirely misrepresenting this pipeline. The unpermitted section of concern is not an upgrade of an existing, in-use pipeline, but is strictly-speaking merely utilizing the right-of-way of an old disused 8-inch pipeline previously operated by Manus WV Corporation that once carried landfill gas emitted from the Berkeley County landfill to the VA Medical Center (Attachment 1). A new 12-inch pipeline is being installed on the right-of-way (the old gas line is being left in place) in order to match the Martinsburg Main Gate, i.e., the end stop of the Eastern Panhandle Expansion Project, with the origin point of the Route 9 Extension Project. However, the pipeline of concern from the Berkeley County Landfill to the VA center cannot functionally deliver natural gas to the Route 9 Extension Project. Notwithstanding that it was originally intended to carry landfill gas at 6 PSI, it did not even meet the safety standards set forth in 1986 and required a waiver from meeting the safety standards set forth in 49CFR192.63 (Attachment 2). This line must be replaced or a new line must be installed to service the Route 9 extension project. We believe the latter is what is currently occurring.

The sections being installed in piecemeal fashion are to deliver gas to Rockwool. Therefore this is a single, linear end-user project subject to WVDEP Oil and Gas Construction Stormwater Permitting. However, The Route 9 Extension Project storm water permit (WVR311281) was

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terminated following inspection on June 16, 2020 (Attachment 3). There is no other stormwater permit to cover this work that can be identified. If there is such a permit please direct us to it.

Mountaineer has told property owners that the gas line is “being replaced for safety reasons”, when in fact the in situ disused line is not in use and not being upgraded. Please use the site inspection to clarify and confirm the construction activity at the site. Please determine if pipe is being upgraded or a new pipeline being installed.

Examples of similar projects that were required to be permitted

We have identified three recent similar examples where WVDEP required Oil & Gas Construction Stormwater Permitting for gas line replacements and upgrade projects. Two of these examples are from Mountaineer Gas Company itself (WVR311506, Corning Way Upgrade, Berkeley Co.); (WVR311395 O’Neil Farm Trunk Line Upgrade, Mon. Co.) and one is from Hampshire Gas Company (WVR311326, Hampshire Gas Pipeline Replacement Phase 2, Hampshire Co.) Each of these was required to have a SWPPP and to certify they are following DEP General Permit requirements, including contact with Army Corps of Engineers on any wetlands or stream crossing, and showing that the entity has a Jurisdictional Determination (JD) letter on any wetlands to be impacted.

The Mountaineer Gas work in question is avoiding all of the DEP and public scrutiny, has no valid SWPPP and no contact with Corps of Engineers, in spite of on-going wetlands disturbance and of intended wetlands and riparian impacts along the non-permitted route.

Corning Way Upgrade (WVR311506) was approved May 4, 2020, with disturbance of 1 to less than 3 acres, for replacement and upgrade of an existing plastic natural gas distribution line along Corning Way. The limit of disturbance was 1.7 acres and the stated purpose was to provide natural gas to a single end user the new Clorox plant being constructed. This project is very similar to what is happening in the case of the unpermitted work in question. MG has claimed they are upgrading the current gas pipeline and the line will service the new instillation Rockwool.

The O’Neal Farm Trunkline Upgrade (WVR311395) was approved August 27, 2019, with 3 acres plus disturbance, for upgrading approximately 7,455 feet of existing 6-inch gas line to a 12-inch gas line. The limit of disturbance is 11.22 acres along a linear route that is approximately 1 mile. Again this is not dissimilar from the project in question and was made to obtain a permit.

Hampshire Gas Pipeline Replacement Project (WVR311326), was approved July 31, 2019 planned different, discontinuous sections of pipeline across the county. This was not even an upgrade project, but simply replacing the existing pipe with the same size new pipe. The pipeline replacement and pressure testing project consists of three sections of pipeline that will last for five construction years. This project is just under 7 miles and has a total proposed disturbance of 32.92 acres.

These three projects are examples similar to MG reported activity at the project in question; replacing or upgrading existing pipe, non-contiguous, linear, greater than one year, a total disturbance of greater than 1 acre or with a single end user. Yet MG has not been required to permit this project.

The WVDEP should seek more information in a transparent way

In the Complaint Investigation Report dated March 11, 2020 (Attachment 4) it states:

“Compliance Evaluation (Action Taken):

It was brought to my attention that Jefferson County Foundation believe Mountaineer Gas is trying to work around the permitting process by “stringing out” contiguous work. I have requested a map from Mountaineer Gas showing all plan projects, color coded to year and priority of work needing to be completed. This will be passed on to my supervisor and permitting section to see if a common plan of development exists or not. At that time a decision will be made on if a NPDES permit needs to be obtained.”

This is the “map” we are referring to. We hope this map, with all Mountaineer Gas’s planned projects, year, and priority, was obtained by DEP. Were you able to determine if a common plan of development exists?

The map you provided while helpful poses two issues. First it lacks the information you and we were seeking with regards to when the different sections would be completed. Second this map supports the idea that this is a common plan of development cleverly split up to avoid permitting. It strains credulity that MG will install or upgrade to 12” high pressure line in some locations and not eventually make the line contiguous.

Additionally the map need to be completed for several years not simply the remainder of 2021. It is completely plausible that MG plans to install the interconnecting sections in the first half of 2021. This information needs to be determined. Further as stated above while the map states pipe is being replaced we have not observed MG removing any pipe at any of these sites only installing new pipe. The purpose of these upgrades needs to be clearly and accurately denoted, and should be confirmed on inspection.

Request for action

We ask that an immediate stop work order be given to MG, until the project can be evaluated fully. We ask that a map that meets the requirements outlined in the March 11, 2020 inspection report be obtained from MG for multiple years not just 6 months so the true nature and purpose of the entire project can be seen.

We ask that the inspection be used to investigate and confirm the purpose of this work and determine if it is in fact as represented.

We ask that that MG be required to stop work until an appropriate permit is obtained.

Best regards,



Dr. Christine Wimer
President,
Jefferson County Foundation

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Enclosures:

Attachment 1: map prepared by the Mountaineer Gas from the original 8 inch, low psi, pipe install in 1985

Attachment 2: Termination Inspection dated 6/15/2020 for General Permit No WV0115924

Attachment 3: Manus Correspondence with waiver

Attachment 4: Complaint Investigation Report dated March 11, 2020